



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 393	Assembly Substitute Amendment 1
<i>Memo published: June 25, 2003</i> <i>Contact: Joyce L. Kiel, Senior Staff Attorney (266-3137)</i>	

2003 Assembly Bill 393, as amended by Assembly Substitute Amendment 1 to the bill, relates to transfer opportunities for pupils who are victims of a violent criminal offense at school during school hours or during a school-sponsored event at the school or, in certain circumstances, while being transported to or from school on a school bus or in a motor vehicle operated as an alternative method of transportation under s. 121.555, Stats.

The amended bill provides that “violent criminal offense” is to be defined by the administrative rules promulgated by the Department of Public Instruction (DPI) to implement the unsafe school provision in the federal No Child Left Behind Act. Those rules have been promulgated by DPI in Clearinghouse Rule 02-151, which creates ch. PI 23, Wis. Adm. Code, effective August 1, 2003. Consistent with federal law, *ch. PI 23* provides that if a pupil is a victim of a violent criminal offense while at school or being transported to school under the same circumstances as in the bill, the pupil must be offered the opportunity to transfer to ***another appropriate grade level public school operated by the school district***. (In both ch. PI 23 and the amended bill, the violent criminal offense must have been reported to the appropriate law enforcement agency and the school principal.)

The amended bill provides that in these circumstances, ***if there is no other appropriate grade level public school operated by the school district***, the pupil must be offered the opportunity to attend a public school in ***another*** school district, and it requires the resident school district to pay tuition.

The amended bill provides that the school district to which the pupil applied must admit the pupil unless the school board of the nonresident school district rejects the application based on any of the reasons that a nonresident school district may use to reject admission of a pupil under the full-time open enrollment program. These reasons are: (1) the availability of space in the schools, programs, classes, or grades in the nonresident school district; (2) previous expulsion of the pupil for certain reasons; (3) if the pupil has a disability, whether the special education or related services described in the pupil’s individualized education program (IEP) are available and whether space is available to provide the

special education or related services; and (4) whether the pupil has been referred or identified for evaluation as a pupil with a disability but has not yet been evaluated by an IEP team.

If the pupil is admitted to the nonresident school district, the amended bill permits the pupil to remain there under the victim transfer program until the first opportunity to be admitted to a nonresident school district under the full-time open enrollment program. If the pupil then applies to transfer under the open enrollment program, the amended bill gives the pupil priority to transfer to another school district in the event that statutory transfer quotas apply.

The amended bill includes the following provisions regarding transportation under the victim transfer program:

- Contiguous school district. If the pupil transfers to a school district contiguous to the resident school district, the resident school district must pay to transport the pupil to and from school. Moreover, in the event that a pupil under the victim transfer program later attends school in a contiguous school district under the open enrollment program, the obligation of the resident school district to pay for transportation continues.
- Noncontiguous school district. If the pupil transfers to a school district that is not contiguous to the school district of residence, the transportation must be arranged and paid for by the pupil's parent or guardian. However, if the pupil has a disability and the IEP requires transportation, the amended bill provides that the nonresident school district must provide the transportation.

The amended bill also provides that the school board of either the resident or nonresident school district may elect to voluntarily provide transportation that is not statutorily required to be provided.

For pupils with a disability, the amended bill generally follows the pattern under the open enrollment statutes and provides that the nonresident school district becomes the local educational agency responsible for the pupil, but a person designated by the board of the resident school district becomes a member of the IEP team.

Under the amended bill, the transfer opportunity applies to cases in which the violent criminal offense was committed on or after the effective date of the bill.

Legislative History

Assembly Substitute Amendment 1 to the bill was introduced by Representatives Jensen, Sinicki, Towns, and Vukmir. It was adopted by a voice vote. The Assembly passed the bill, as amended, on a vote of Ayes, 96 and Noes, 0.

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